
IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Civil Nos. 2:08 CV27 TC
Petitioner,	:	REPORT &
vs.	:	RECOMMENDATION
NORM SCHOENHERR,	:	Honorable Tena Campbell
Respondent.	:	Magistrate Judge Paul M. Warner

The United States of America filed a petition to enforce its June 25, 2007 IRS Summons (the "Summons") against Norm Schoenherr ("Respondent") pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). The Honorable Tena Campbell issued an Order to Show Cause ("OTSC") on January 10, 2008, which referred this matter to Magistrate Judge Paul M. Warner for a hearing scheduled for March 5, 2008.

The OTSC directed Respondent to file a written response supported by sworn affidavits to the United States' Petition to Enforce the Summons (the "Petition") within ten days of the OTSC being served upon him. The OTSC also directed this court convene a hearing on March 5, 2008, at 10:00 a.m. to determine whether Respondent has shown cause for failure to comply with the Summons.

Based on the signatures of the parties' respective counsel, shown below, the parties have stipulated to the following:

1. The United States has carried its burden of proof to enforce the Summons. Through the Summons and the declaration of the revenue officer that were attached to the Petition, the United

States established that: (1) it sought the summoned information for a legitimate purpose, (2) the summoned information is relevant to the legitimate purpose, (3) the summoned information was not already in the possession of the United States; and (4) that the United States followed proper administrative procedures.

2. Once the United States has established its initial burden of proof, the burden shifts to Respondent to show why he should not be compelled to comply with the Summons. Based on the signed stipulation below, Respondent does not contest the enforcement of the Summons.

3. Given that Respondent does not contest enforcement of the Summons, the March 5, 2008 hearing is **VACATED**.

Consequently, this court recommends that:

1. The district court find that Respondent has failed to show cause why he should not be compelled to comply with the Summons; and

2. The district court order Respondent to provide the information required by the Summons to the IRS no later than thirty (30) days after the district court adopts this report and recommendation. The IRS offices are located at 50 South 200 East, Salt Lake City, Utah 84111.

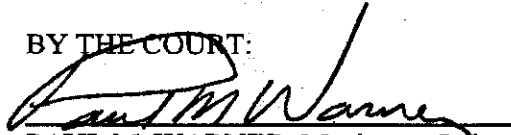
Copies of the foregoing report and recommendation are being sent to the parties, who are hereby notified of their right to object. The parties are further notified that they must file any objections to the report and recommendation with the clerk of the district court within ten (10) days after receiving it. *See* 28 U.S.C. § 636(b)(1)(C). Failure to file objections may constitute a waiver of those objections on subsequent appellate review.

Fax Server

GMT 3/4/2008 5:24:48 PM PAGE 5/006 Fax Server

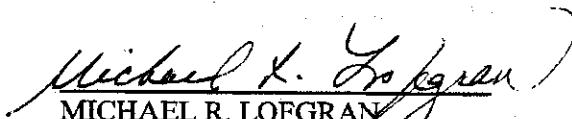
DATED this ____ day of March 2008.

BY THE COURT:


PAUL M. WARNER, Magistrate Judge
United States District Court

The United States, through the undersigned Assistant United States Attorney, and Respondent, through the undersigned counsel, hereby stipulate and agree to the entry of the foregoing REPORT AND RECOMMENDATION.

BRETT L. TOLMAN
United States Attorney


MICHAEL R. LOFGRAN
Huntsman, Evans & Lofgran
Attorney for Respondent


JARED C. BENNETT
Assistant United States Attorney